

FILED

CLERK, US DISTRICT COURT
WESTERN DISTRICT OF TEXAS.

JUDGE KATHLEEN CARDONE

Sf

CIVIL ACTION NO.

EP 18 CV 0387

RESPONDENT.

II.
STATUTORY BASIS FOR FORFEITURE

This is a civil forfeiture action *in rem* brought against the Respondent Property for the violation of Title 49 U.S.C. § 46306, and subject to forfeiture to the United States pursuant to Title 49 U.S.C. §§ 46306(d)(1) and (2)(C)(ii).

Title 49 U.S.C. § 46306. Registration violations involving aircraft not providing air transportation

* * *

(d) Seizure and forfeiture.—(1) The Administrator of Drug Enforcement or the Commissioner of U.S. Customs and Border Protection may seize and forfeit under the customs laws an aircraft whose use is related to a violation of subsection (b) of this section, or to aid or facilitate a violation, regardless of whether a person is charged with the violation.

(2) An aircraft's use is presumed to have been related to a violation of, or to aid or facilitate a violation of—

* * *

(C) subsection (b)(4) of this section if—

* * *

(ii) the application form used to obtain the aircraft certificate of registration contains a material false statement; . . .

III.
JURISDICTION AND VENUE

Under Title 28 U.S.C. § 1345, this Court has jurisdiction over an action commenced by the United States, and under Title 28 U.S.C. § 1355(a), jurisdiction over an action for forfeiture. This Court has *in rem* jurisdiction over the Respondent Property under Title 28 U.S.C. §§ 1355(b) and 1395(b). Venue is proper in this district pursuant to Title 28 U.S.C. § 1355(b)(1)(A), because the acts or omissions giving rise to the forfeiture occurred in this District, and pursuant to Title 28 U.S.C. §§ 1355(b)(1)(B) and 1395(b) because the Respondent Property was seized in this District.

IV.
FACTS IN SUPPORT OF FORFEITURE

On July 17, 2018, at approximately 7:00 a.m., United States Customs and Border Protection (CBP), Air and Marine Operations (AMO), Air Interdiction Agent (AIA) Anthony Cooper (Agent Cooper) identified a suspect aircraft bearing tail number N4881E in the Advanced Passenger Information System (APIS) departing the United States for the Republic of Mexico at approximately 8:00 a.m. that same day.

Agent Cooper identified the listed pilot and sole passenger of N4881E as Alfonso Enriquez Hernandez (Enriquez Hernandez), a Mexican national.

Agent Cooper conducted a preliminary check utilizing the Federal Aviation Administration N-Number query, which yielded a positive result for N4881E. The registration for N4881E listed the Respondent Property, registered to Alfonso Enriquez, 12410 Sombra Alegre Dr., El Paso, Texas 79938.

At approximately 7:45 a.m., Homeland Security Investigations (HSI) Special Agent Paul Zacchigna (Agent Zacchigna) identified a black in color Chrysler Town and Country minivan bearing Chihuahua, Mexico license plated EKD8276. Agent Zacchigna followed the vehicle to the general aviation hangars located at the El Paso International Airport (EPIA). Agent Zacchigna witnessed a male occupant open a hangar revealing the Respondent Property with tail number N4881E.

At approximately 8:00 a.m., CBP AMO Aviation Enforcement Agent Luis Yanez (Agent Yanez) contacted EPIA tower to reroute the Respondent Property to the U.S. Customs Ramp area of EPIA.

At approximately 8:10 a.m., the Respondent Property arrived at the U.S. Customs Ramp area of EPIA and parked. The pilot exited the aircraft and was approached by Agent Zacchigna,

Agent Yanez, and Agent Cooper. The pilot identified himself as Alfonso Enriquez Hernandez. Agent Cooper requested Enriquez Hernandez's pilot certificate as part of a pilot's certificate inspection. Enriquez Hernandez provided his U.S. Pilot's Certificate along with proof of medical evaluation. The pilot certificate listed Enriquez Hernandez by the name of, Alfonso Enriquez, Sr., and with the address of Periferico de la Juventus #8727, 31123 Chihuahua, Mexico.

Enriquez Hernandez also provided the agents with the registration for the Respondent Property. The registration listed the Respondent Property as registered to Alfonso Enriquez, 12410 Sombra Alegre Dr., El Paso, Texas 79938.

During the pilot's certificate inspection, Enriquez Hernandez identified himself as the registered owner of the Respondent Property. Enriquez Hernandez advised the agents he used the Respondent Property to facilitate his business in Chihuahua, Mexico, where he bought and sold musical instruments. Enriquez Hernandez further advised he would fly to the United States to purchase musical instruments and other store-bought essentials and would return to Mexico. Enriquez Hernandez stated he owned a house located in El Paso at 12410 Sombra Alegre Dr., El Paso, Texas 79938, but resided in Mexico. Enriquez Hernandez advised the agents he purchased the Respondent Property and registered it in his own name. He did not attempt to register the aircraft under a trust or under a United States based corporation. Enriquez Hernandez stated he registered the Respondent Property in the United States, because Mexican authorities would not scrutinize it. Enriquez Hernandez stated he believed the Mexican government "saw all Mexican tail numbers as drug smugglers." Enriquez Hernandez also stated he registered the Respondent Property in the United States, because it was cheaper, and maintenance and other services were more reliable.

Following the pilot's certificate inspection, Agent Yanez approached the Respondent Property to conduct a Southbound customs inspection to include a check for immigration documents. At that time, Enriquez Hernandez presented his duly issued B1/B2 Visa bearing his photo, name, and date of birth. Enriquez Hernandez also presented a duly issued Mexican passport also bearing his photo, name, and date of birth. Enriquez Hernandez advised agents he was a non-immigrant and had no current applications for immigrant status.

Agent Cooper contacted Federal Aviation Administration Special Agent Kenny Maldonado (Agent Maldonado), and advised him of the inspection of the Respondent Property and pilot/owner Enriquez Hernandez. At that time, Agent Maldonado informed Agent Cooper that due to the aircraft registration violation the Respondent Property was eligible for administrative seizure under Title 49 U.S.C. § 46306.

At approximately 9:30 a.m., agents advised Enriquez Hernandez the Respondent Property would be seized and taken into custody.

Subsequently, Agent Zacchigna discovered via the FAA.gov website, in order to register an aircraft, an applicant must send the following documents to the Aircraft Registration Branch in Oklahoma: 1) an Aircraft Registration Application form (FAA AC Form 8050-1); 2) an aircraft bill of sale as evidence of ownership (FAA AC Form 8050-2); and 3) a \$5.00 registration fee made payable to the FAA.

Agent Zacchigna received documents provided by the FAA, specifically FAA AC Form 8050-1 Aircraft Registration Form, indicating the Respondent Property was applied for registration by Alfonso Enriquez, at address 12410 Sombra Alegre Dr., El Paso, Texas 79938. In said document, Enriquez Hernandez listed himself as the individual owner, certifying he is a citizen of the United States or meets the aircraft registration citizenship requirements of 14

C.F.R. Part 47. Enriquez Hernandez signed the document on August 4, 2016, indicating he understood a false or dishonest answer to any question in the application may be grounds for punishment by fine and/or imprisonment under Title 18 U.S.C. § 1001.

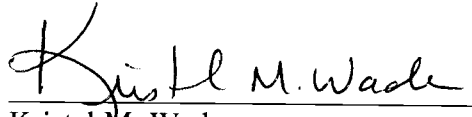
Based upon the foregoing, the Respondent Property is subject to forfeiture pursuant to Title 49 U.S.C. §§ 46306(d)(1) and (2)(C)(ii), as property involved in violation of Title 49 U.S.C. § 46306.

**V.
PRAYER**

WHEREFORE, Petitioner, United States of America, prays that due process issue to enforce the forfeiture of the Respondent Property, that due notice, pursuant to Rule G(4), be given to all interested parties to appear and show cause why forfeiture should not be decreed,¹ that a warrant for an arrest in rem be ordered, that the Respondent Property be forfeited to the United States of America, that the Respondent Property be disposed of in accordance with the law, and for any such further relief as this Honorable Court deems just and proper.

Respectfully submitted,

JOHN F. BASH
United States Attorney for the
Western District of Texas

By: 
Kristal M. Wade
Assistant United States Attorney
New Mexico Bar No. 8204
700 E. San Antonio Ave., Suite 200
El Paso, Texas 79901
Tel: (915) 534-6884
Fax: (915) 534-3461

¹Appendix A, Notice of Complaint of Forfeiture, which is being filed along with this complaint, will be sent to those known to the United States to have an interest in the Respondent Property.

VERIFICATION

Special Agent, Paul Zacchigna, declares and says that:

I am a Special Agent with Homeland Security Investigations, assigned to the El Paso Field Office, and I am the investigator responsible for the accuracy of the information provided in this complaint.

I have read the above Verified Complaint for Forfeiture and know the contents thereof based upon my personal participation in the investigation, my conversations with others, and my review of documents and other evidence. Based upon information and belief, the allegations contained in the Verified Complaint for Forfeiture are true and correct. Because the Verified Complaint is being submitted for the limited purpose of stating sufficiently detailed facts to support a reasonable belief that the government will be able to meet its burden of proof at trial, it does not contain every fact known by me or the United States. Where the actions, conversations, and statements of others are related therein, they are related in substance and in part, unless otherwise stated.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on this the 18th day of December, 2018.



Special Agent Paul Zacchigna
Homeland Security Investigation

CIVIL COVER SHEET

EP 18 CV 0387
JUDGE KATHLEEN CARDONE
FILED

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Kristal M. Wade, Assistant United States Attorney
700 E. San Antonio, Suite 200
El Paso, Texas 79901 (915) 534-6884

DEFENDANTS

Cessna 172N, single engine fixed wing aircraft, serial number 17271672, tail number N4881E and associated keys, flight logs, aircraft log books, owner's manuals, and maintenance records

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED BY _____ DEPT

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify) _____
☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

49 U.S.C. §§ 46306(d)(1) and (2)(C)(ii)

Brief description of cause:

Registration violation involving aircraft not providing air transportation (49 U.S.C. § 46306)

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE
12/18/2018

SIGNATURE OF ATTORNEY OF RECORD

Kristal M. Wade

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

FILED

U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY Sf
DEPUTY

JUDGE KATHLEEN CARDONE

CIVIL ACTION NO.

EP 18 CV 0387

- **Cessna 172N, single engine fixed wing aircraft, serial number 17271672, tail number N4881E and all associated keys, flight logs, aircraft log books, owner's manuals, and maintenance records.**

Forfeiture which has been filed in this cause and which describes the Respondent Property. Pursuant to Supplemental Rule G(4)(b), any person claiming an interest in the Respondent Property who has received direct notice of this forfeiture action must file a Claim in compliance with Rule G(5)(a), with the court within **thirty-five (35) days after the notice was sent, if delivered by mail (if mailed, the date sent is provided below), or within 35 days of the date of delivery, if notice was personally served.** An Answer or motion under Rule 12 of the Federal Rules of Civil Procedure must then be filed within **twenty-one (21)** days of the Claim being filed. The Claim and Answer must be filed with the Clerk of the Court, 525 Magoffin, Suite 105, El Paso, Texas 79901, and copies of each must be served upon Assistant United States Attorney Kristal M. Wade, 700 E. San Antonio Ave, Suite 200, El Paso, Texas 79901, or default and forfeiture will be ordered. *See* Title 18 U.S.C. § 983(a)(4)(A) and Rule G(5) of the Supplemental Rules for Admiralty or Maritime Claim and Asset Forfeiture Actions.

Failure to follow the requirements set forth above will result in a judgment by default taken against you for the relief demanded in the complaint.

DATE NOTICE SENT: _____

JOHN F. BASH
United States Attorney
for the Western District of Texas

By: _____
Kristal M. Wade
Assistant United States Attorney
New Mexico Bar No. 8204
700 E. San Antonio Ave., Suite 200
El Paso, TX 79901
Tel: 915-534-6884
Fax: 915-534-3461

America pursuant to Title 49 U.S.C. §§ 46306(d)(1) and (2)(C)(ii), as property involved in violations of Title 49 U.S.C. § 46306, and

WHEREAS an Order has been entered by the United States District Court for the Western District of Texas that a Warrant for Arrest of Property be issued as prayed for by Petitioner United States of America,

YOU ARE THEREFORE COMMANDED to arrest the Respondent Property as soon as practicable by serving a copy of this warrant on the custodian in whose possession, custody or control the Respondent Property is presently found, and to use whatever means may be appropriate to protect and maintain it in your custody until further order of this Court, including designating a substitute custodian or representative for the purposes of maintaining the care and custody of the Respondent Property and to make a return as provided by law.

SIGNED this _____ day of _____, 2018.

JEANNETTE J. CLACK
United States District Clerk
Western District of Texas

By: _____
Deputy

DEC 13 2018

UNITED STATES OF AMERICA,

PETITIONER,

V.

**CESSNA 172N, SINGLE ENGINE FIXED
WING AIRCRAFT, SERIAL NUMBER
17271672, TAIL NUMBER N4881E, and
ALL ASSOCIATED KEYS, FLIGHT
LOGS, AIRCRAFT LOG BOOKS,
OWNER'S MANUALS, and
MAINTENANCE RECORDS,**

RESPONDENT.

=====

JUDGE KATHLEEN CARDONE

CIVIL ACTION NO.

EP 18 CV 0387

WHEREAS, on December 18, 2018, Petitioner United States of America, by its attorneys, John F. Bash, United States Attorney for the Western District of Texas, and Assistant United States Attorney Kristal M. Wade, filed a Verified Complaint for Forfeiture in the United States District Court for the Western District of Texas, against one Cessna 172N, single engine fixed wing aircraft, serial number 17271671, tail number N4881E and all associated keys, flight logs, aircraft log books, owner's manuals, and maintenance records, seized on or about July 19, 2018, in El Paso, Texas, in the Western District of Texas (hereinafter referred to as the "Respondent Property"), alleging that the Respondent Property is subject to forfeiture to the United States of America pursuant to Title 49 U.S.C. §§ 46306(d)(1) and (2)(C)(ii), as property involved in violations of Title 49 U.S.C. § 46306,

IT IS THEREFORE ORDERED that a Warrant for the Arrest of Property against the Respondent Property issue as prayed for, and that the United States Customs and Border

Protection, Offices of Fines, Penalties and Forfeitures, and/or Homeland Security Investigations, or any other law enforcement officer, or any other person or organization authorized by law to enforce the warrant, be commanded to arrest the Respondent Property and take it into possession for safe custody as provided by Rule G, Supplemental Rules of Federal Rules of Civil Procedure, until further order of the Court, and to use whatever means may be appropriate to protect and maintain it in their custody, including designating a substitute custodian or representative for the purposes of maintaining the care and custody of the Respondent Property, and to make a return as provided by law.

SIGNED this _____ day of _____, 2018.

UNITED STATES DISTRICT JUDGE